

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1873 S HB	<b>Title:</b> Vapor product taxation
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## Estimated Cash Receipts

Agency Name	2019-21		2021-23		2023-25	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of State Treasurer	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Office of Attorney General	0	30,000	0	30,000	0	30,000
Department of Revenue	8,747,000	27,159,000	23,679,000	53,038,000	30,100,000	66,818,000
<b>Total \$</b>	<b>8,747,000</b>	<b>27,189,000</b>	<b>23,679,000</b>	<b>53,068,000</b>	<b>30,100,000</b>	<b>66,848,000</b>

Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other		1,063,260		1,675,082		2,292,840
Local Gov. Total		1,063,260		1,675,082		2,292,840

## Estimated Operating Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of State Treasurer	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.1	0	30,000	.1	0	30,000	.1	0	30,000
Department of Revenue	2.3	660,500	660,500	1.5	259,200	259,200	1.4	250,200	250,200
Liquor and Cannabis Board	6.1	0	25,249	7.0	0	0	7.0	0	0
Department of Health	.0	0	18,656,000	.0	0	29,750,000	.0	0	37,204,000
<b>Total \$</b>	<b>8.5</b>	<b>660,500</b>	<b>19,371,749</b>	<b>8.6</b>	<b>259,200</b>	<b>30,039,200</b>	<b>8.5</b>	<b>250,200</b>	<b>37,484,200</b>

## Estimated Capital Budget Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of State Treasurer	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Liquor and Cannabis Board	.0	0	0	.0	0	0	.0	0	0
Department of Health	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

## Estimated Capital Budget Breakout

NONE

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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1873 S HB	<b>Title:</b> Vapor product taxation	<b>Agency:</b> 090-Office of State Treasurer
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**Part I: Estimates**

**No Fiscal Impact**

**Estimated Cash Receipts to:**

**Non-zero but indeterminate cost. Please see discussion.**

**Estimated Operating Expenditures from:**

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

<b>Legislative Contact:</b> Rachelle Harris	<b>Phone:</b> 360-786-7137	<b>Date:</b> 03/18/2019
<b>Agency Preparation:</b> Dan Mason	<b>Phone:</b> (360) 902-8990	<b>Date:</b> 03/19/2019
<b>Agency Approval:</b> Dan Mason	<b>Phone:</b> (360) 902-8990	<b>Date:</b> 03/19/2019
<b>OFM Review:</b> Ramona Nabors	<b>Phone:</b> (360) 902-0547	<b>Date:</b> 03/19/2019

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

SHB 1873 creates the essential public health services account, coupled with the general fund as the recipient of the earnings from investments.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

Projected cash flows are currently unavailable; therefore, estimated earnings from investments are indeterminable.

There may be an impact on the debt service limitation calculation. Any change to the earnings credited to the general fund will change, by an equal amount, general state revenues.

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

### III. B - Expenditures by Object Or Purpose

NONE

## Part IV: Capital Budget Impact

NONE

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1873 S HB	<b>Title:</b> Vapor product taxation	<b>Agency:</b> 100-Office of Attorney General
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2020	FY 2021	2019-21	2021-23	2023-25
Legal Services Revolving Account-State 405-1	15,000	15,000	30,000	30,000	30,000
<b>Total \$</b>	15,000	15,000	30,000	30,000	30,000

### Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.1	0.1	0.1	0.1	0.1
<b>Account</b>					
Legal Services Revolving Account-State 405-1	15,000	15,000	30,000	30,000	30,000
<b>Total \$</b>	15,000	15,000	30,000	30,000	30,000

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Rachelle Harris	Phone: 360-786-7137	Date: 03/18/2019
Agency Preparation: Cam Comfort	Phone: (360) 664-9429	Date: 03/21/2019
Agency Approval: Nick Klucarich	Phone: 360-586-3434	Date: 03/21/2019
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 03/25/2019

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Section 101 is a new section stating legislative findings and intent.

Section 201 is a new section providing definitions, including that “Board” means the Liquor and Cannabis Board (LCB).

Section 202 is a new section levying a tax on the sale, use, consumption, handling, possession, or distribution of all vapor products in this state. The tax must be collected at the time the distributor engages in certain actions. The Department of Revenue (DOR) also is required to collect the tax from the consumer of vapor products where such tax was not by paid by the distributor.

Section 203 is a new section addressing and defining terms related to bundled transactions.

Section 205 is a new section stating the intent to impose the tax only once on all vapor products in this state.

Section 206 is a new section providing an exemption based on the federal constitution and laws.

Section 207 is a new section requiring the preservation of complete and accurate records, and authorizing LCB and DOR, without a search warrant, to enter and inspect any place of business of a distributor.

Section 208 is a new section requiring licensing under RCW 70.345.

Section 209 is a new section requiring retailers to procure itemized invoices of all vapor products purchased. Retailers must keep complete, accurate, and legible invoices. LCB and DOR, without a search warrant, may enter and inspect any place of business of a retailer.

Section 210 is a new section providing a credit for vapor products shipped or transported out of state, returned and destroyed products, and products sold to the United States or any Indian organization, in accordance with rules prescribed by DOR.

Section 211 is a new section applying the administrative provisions of RCW 82.32.

Section 212 is a new section requiring DOR to authorize LCB enforcement officers to enforce this chapter’s provisions.

Section 213 is a new section authorizing DOR to establish rules to implement Section 207, and to impose penalties and interest on a retailer’s willful nonpayment of tax.

Section 214 is a new section prohibiting the unauthorized transport of vapor products for sale. DOR and LCB are given enforcement authority.

Section 215 is a new section requiring LCB to compile a list of distributors, retailers, and delivery sales licenses under RCW 70.345, which it must update on a monthly basis and publish.

Section 216 is a new section imposing various prohibitions on distributors and retailers, the violation of which is a gross misdemeanor.

Section 217 is a new section addressing licensing.

Section 218 is a new section requiring manufacturers to provide LCB with a list of names of representatives.

Section 219 is a new section authoring DOR and LCB to seize, without a warrant, vapor products held by unlicensed persons.

Section 220 is a new section requiring DOR and LCB to proceed as provided in RCW 82.24.135 in all cases of seizure of vapor products made subject to forfeiture under this chapter.

Section 221 is a new section authorizing DOR and LCB to seek a search warrant upon good reason to believe that a violation of the provisions of this chapter has occurred.

Section 222 is a new section imposing the tax authorized by Section 202 on preexisting inventories of vapor products.

Section 223 is a new section providing an exemption for vapor products sold, used, consumed, handled, possessed or distributed by an Indian retailer during the effective period of a tax contact subject to Section 403.

Section 301 amends RCW 66.08.145 to authorize LCB to issue subpoenas with respect to the new chapter created in Section 503.

Section 302 amends RCW 66.44.010 to authorize LCB to enforce the new chapter created in Section 503.

Section 303 amends RCW 82.24.510 to add references to RCW 70.345.

Section 304 amends RCW 82.24.550 to add references to RCW 70.345 and vapor products, and to define the term "vapor products."

Sections 306 through 308 amend three statutes in RCW 82.26 to add references to RCW 70.345 or to RCW 70.345 and vapor products.

Section 309 amends RCW 82.32.300 to require DOR to make and publish rules to enforce the new chapter created in Section 503.

Sections 401 amends RCW 43.06.450 and Sections 402 through 406 are new sections to authorize tribal compacts concerning vapor products.

Section 501 is a severance clause.

Section 502 addresses conflicts with federal law.

Section 503 creates a new title in RCW 82 with respect to Sections 201 through 223.

Section 504 provides that RCW 82.32.805 and RCW 82.32.808 do not apply to this act.

Section 505 provides an effective date of October 1, 2019.

## **II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

Cash receipts are assumed to equal the Legal Service Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is LCB. The AGO will bill all clients for legal services rendered.

These cash receipts represent the AGO's authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agencies' fiscal note. Appropriation authority is necessary in the AGO budget.

## **II. C - Expenditures**

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

AGO Agency Assumptions:

1. Legal services associated with the enactment of this bill will begin on October 1, 2019.
2. This request does not include cost of living salary increases identified in the Governor's proposed 2019-21 budget.
3. The AGO Agriculture & Health (AHD) division has reviewed this bill and determined it will not significantly increase the division's workload in representing the Department of Health (DOH). This bill will levy a tax on vapor products and direct a substantial portion of the revenue to uses administered by DOH. DOH may require a minimal amount of legal advice that will be provided with existing resources. Costs are not included in this request.
4. The AGO Licensing & Administrative Law (LAL) division has reviewed this bill and determined it will not significantly increase the division's workload in representing LCB. This bill imposes taxes on the sale of vapor products. LCB licenses vapor products retailers, but LCB will not collect this tax. LCB has various enforcement powers, including inspection of records and premises of distributors and retailers, and seizure of illegally held vapor products. The bill also authorizes the Department of Revenue (DOR) to enter into tribal vapor products compacts, in consultation with LCB. All of this work may require some legal advice from LAL, but it will be accommodated within existing resources. New legal services are assumed to be nominal and costs are not included in this request.
5. The AGO Revenue & Finance (REV) division has reviewed this bill and determined it will not significantly increase the division's workload in representing the DOR. Although DOR and REV assume this bill will generate one or two excise refund actions per year, those actions will be handled as part of the 50-70 refund actions annually received and defended by REV attorneys. The need for legal advice is assumed to be nominal and costs are not included in this request.

Assumptions for the AGO Government Compliance & Enforcement (GCE) Legal Services for LCB:



1. The AGO will bill LCB for legal services based on the enactment of this bill.
2. Sections 207 and 209 of this bill require vapor product distributors and retailers to maintain certain records as required by DOR. The failure of a distributor or retailer to allow free access to the records or the hinderance or interference with an examination of the records would subject the entity's vapor license to suspension or revocation by the LCB.
3. Based on data relating to similar provisions for liquor licensees, the LCB assumes that this bill will result in an annual increase of three new administrative violations each FY. GCE concurs with this assumption.
4. GCE assumes that the litigation of each new administrative violation case will utilize an average of approximately 30 Assistant Attorney General (AAG) hours. Therefore, beginning in FY 2020 and continuing each year thereafter, GCE projects an increase of 90 AAG hours of work for the litigation of these new cases.
5. Section 219 will subject to forfeiture certain vapor products and related instrumentalities. Based on data from similar forfeiture provisions for tobacco products, GCE assumes that this provision will result in an increase of one new forfeiture case each biennium. The litigation of each case will utilize 60 AAG hours of work. Because we cannot determine in which FY in the biennium the new case will arise and with the litigation often spread over multiple years, the AGO assumes that this new litigation will result in an annual increase of 30 AAG hours beginning in FY 2020.
6. Beginning in FY 2020 and continuing each year thereafter, GCE assume a total fiscal impact of 120 (90 + 30) AAG hours.
7. Total workload impact beginning in FY 2020: 0.07 AAG at a cost of \$15,000 per FY.

Note: Agency administration support FTEs are included in the tables below, using a Management Analyst 5 as a representative classification.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
405-1	Legal Services	State	15,000	15,000	30,000	30,000	30,000
	Revolving Account						
<b>Total \$</b>			15,000	15,000	30,000	30,000	30,000

#### III. B - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.1	0.1	0.1	0.1	0.1
A-Salaries and Wages	10,000	10,000	20,000	20,000	20,000
B-Employee Benefits	3,000	3,000	6,000	6,000	6,000
E-Goods and Other Services	2,000	2,000	4,000	4,000	4,000
<b>Total \$</b>	15,000	15,000	30,000	30,000	30,000

#### III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
Assistant Attorney General	103,560	0.1	0.1	0.1	0.1	0.1
<b>Total FTEs</b>		0.1	0.1	0.1	0.1	0.1

**III. D - Expenditures By Program (optional)**

<b>Program</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>2019-21</b>	<b>2021-23</b>	<b>2023-25</b>
Government Compliance & Enforcement Division (GCE)	15,000	15,000	30,000	30,000	30,000
<b>Total \$</b>	15,000	15,000	30,000	30,000	30,000

**Part IV: Capital Budget Impact**

NONE

None

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

None

# Department of Revenue Fiscal Note

<b>Bill Number:</b> 1873 S HB	<b>Title:</b> Vapor product taxation	<b>Agency:</b> 140-Department of Revenue
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

Account	FY 2020	FY 2021	2019-21	2021-23	2023-25
GF-STATE-State 00 - 00 -	1,974,000	4,162,000	6,136,000	19,569,000	24,473,000
GF-STATE-State 01 - Taxes 01 - Retail Sales Tax	957,000	1,478,000	2,435,000	3,832,000	5,247,000
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax	69,000	107,000	176,000	278,000	380,000
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax	2,000	2,000	4,000	6,000	8,000
NEW-State 00 - 00 -	5,923,000	12,485,000	18,408,000	29,353,000	36,710,000
<b>Total \$</b>	8,925,000	18,234,000	27,159,000	53,038,000	66,818,000

### Estimated Expenditures from:

Account	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	3.1	1.5	2.3	1.5	1.4
GF-STATE-State 001-1	526,400	134,100	660,500	259,200	250,200
<b>Total \$</b>	526,400	134,100	660,500	259,200	250,200

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Rachelle Harris	Phone: 360-786-7137	Date: 03/18/2019
Agency Preparation:	Van Huynh	Phone: 360-534-1512	Date: 05/01/2019
Agency Approval:	Don Gutmann	Phone: 360-534-1510	Date: 05/01/2019
OFM Review:	Kathy Cody	Phone: (360) 902-9822	Date: 05/03/2019

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

NOTE: This fiscal note reflects a revision to the revenue impacts, and supersedes fiscal note number 1873-2. This fiscal note is being revised to reflect the passage of Engrossed House Bill 1074 which increases the minimum legal age of sale of tobacco and vapor products to 21.

This fiscal note reflects language in SHB 1873, 2019 Legislative Session.

#### CURRENT LAW:

Currently, there is no tobacco tax imposed on vapor products. The only state tax revenues from these products are the retailing business and occupation (B&O) tax and the retail sales tax.

#### WHAT THIS BILL DOES:

This bill imposes a new tax on vapor products (“vapor tax”). The tax rate will be 60 percent of taxable sales price (wholesale price). The tax applies to all vapor product sales except stand-alone hardware.

The following summarizes the provisions of the bill that are key to the revenue impact:

- 60% vapor tax on all vapor sales except stand-alone hardware.
- Has tribal compacting.
- Has floor stock tax.
- No internet ban.

Revenues from this new tax will fund foundational public health services; tobacco, vapor product, and other substance abuse prevention; and expanded access to training of public health professionals.

The bill creates the essential public health services account in the state treasury and also provides the following:

- In the 2019-2021 Biennium, 75 percent of the revenues from the vapor tax must be deposited into this new account.
- Beginning in the 2021-2023 Biennium and thereafter, 60 percent of the revenue must be deposited into the account.

Money in the account may be spent only after appropriation to the Department of Health (DOH). DOH must use the money in the account for the following purposes:

- To fund foundational health services, with a minimum of 33 percent of the funds to be used for this purpose;
- To fund tobacco, vapor product, and nicotine control and prevention, and other substance use prevention and education, with a minimum of 33 percent of the funds to be used for this purpose. DOH must follow best practices for comprehensive tobacco control programs as described by the Centers for Disease Control;
- At least 10 percent of funds deposited must be used to support increased access and training of public health professionals at public health programs at accredited public institutions of higher education in Washington; and
- To fund enforcement by the Liquor and Cannabis Board (LCB) to prevent sales of vapor products to minors and for control of marketing and product safety, provided that no more than 12.5 percent of the funds deposited into the account may be utilized and distributed by DOH to LCB for these enforcement purposes.

This bill is effective October 1, 2019.

## II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

### ASSUMPTIONS

- Washington's share of vaping consumption is 2.2 percent of the U.S. total.
- Currently, 79 percent of sales are made at actual stores, not through other sources (e.g. Internet).
- Growth in vaping and the purchase of vaping products are similar to that found in the Wells Fargo forecast mentioned below.
- Annual compliance rates for e-cigarettes will be 50, 60, 70, and 80% (each year thereafter) respectively.
- Annual compliance rates for vapors/tanks/mods (VTMs) will be 26, 39, and 52% (each year thereafter) respectively.
- Because the bill does not specify where the remaining vapor tax revenue should go after the essential public health services account gets its share, it is assumed the state general fund will receive the remainder of the revenue.

### DATA SOURCES

- The estimate (and certain information herein) is based primarily on data taken directly from, or derived from, research done by Wells Fargo Securities on vaping.
- Many other industry sources were also used.

### REVENUE ESTIMATES

This bill will increase state revenue by \$8.9 million in Fiscal Year 2020 and \$27.2 million in the 2019-21 Biennium.

### TOTAL REVENUE IMPACT:

#### State Government (cash basis, \$000):

FY 2020 -	\$ 8,925
FY 2021 -	\$ 18,234
FY 2022 -	\$ 23,944
FY 2023 -	\$ 29,094
FY 2024 -	\$ 31,819
FY 2025 -	\$ 34,999

#### Local Government, if applicable (cash basis, \$000):

FY 2020 -	\$ 417
FY 2021 -	\$ 644
FY 2022 -	\$ 663
FY 2023 -	\$ 1,006
FY 2024 -	\$ 1,088
FY 2025 -	\$ 1,197

## II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

### ASSUMPTIONS:

This estimate affects 3,400 taxpayers.

### FIRST YEAR COSTS:

The Department will incur total costs of \$526,400 in Fiscal Year 2020. These costs include:

Labor Costs - Time and effort equates to 3.1 FTEs.

- Set up, program and test computer system changes for a new vapor products reporting line, including supporting indicators and issuance codes. Modify reports and research files.
- Create a new vapor products tax credit, flags to track distributors and retailers, a new account type for the consumer declaration and inventory form, and letters.
- Answer phone calls and counter inquiries on tax questions and tax return preparation from businesses, individuals, and accountants/CPAs.
- Create and update website information and publications.
- Create a special notice.
- Respond to letter ruling requests and email inquiries.
- Conduct outreach to those reporting tax on existing inventory.
- Review LCB reports and complete assessments to assess vapor tax.
- Resolve additional error and out of balance and amended returns, respond to secure messages and correspondence, answer telephone questions, monitor reports and assist taxpayers with reporting.
- Prepare and conduct hearings for taxpayer appeals.
- Adopt one new administrative rule.

Object Costs - \$222,900.

- Contract computer system programming.
- Print and mail a special notice.
- Print and mail inventory reporting forms to those not filing returns electronically.

**SECOND YEAR COSTS:**

The Department will incur total costs of \$134,100 in Fiscal Year 2021. These costs include:

Labor Costs - Time and effort equates to 1.5 FTEs.

- Respond to letter ruling requests and email inquiries.
- Review LCB reports and complete assessments to assess vapor tax.
- Resolve additional error and out of balance and amended returns, respond to secure messages and correspondence, answer telephone questions, monitor reports and assist taxpayers with reporting.
- Prepare and conduct hearings for taxpayer appeals.

**ONGOING COSTS:**

Ongoing costs for the 2021-23 Biennium equal \$259,200 and include similar activities described in the second year costs. Time and effort equates to 1.5 FTEs in Fiscal Year 2022 and 1.4 FTEs in Fiscal Year 2023.

**Part III: Expenditure Detail**

**III. A - Expenditures by Object Or Purpose**

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	3.1	1.5	2.3	1.5	1.4
A-Salaries and Wages	189,900	89,100	279,000	172,100	166,000
B-Employee Benefits	57,100	26,800	83,900	51,800	50,000
C-Professional Service Contracts	220,000		220,000		
E-Goods and Other Services	39,000	15,100	54,100	29,300	28,400
J-Capital Outlays	20,400	3,100	23,500	6,000	5,800
<b>Total \$</b>	<b>\$526,400</b>	<b>\$134,100</b>	<b>\$660,500</b>	<b>\$259,200</b>	<b>\$250,200</b>

**III. B - Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
EMS BAND 4	115,593	0.0		0.0		
EMS BAND 5	135,039	0.0		0.0		
EXCISE TAX EX 3	56,256	1.2	1.2	1.2	1.2	1.2
FISCAL ANALYST 5	60,636	0.1		0.1		
FORMS AND RECORDS	54,924	0.1		0.1		
ANALYST SUPV						
IT SPEC 4	70,320	0.1		0.1		
MGMT ANALYST1	45,096	0.0		0.0		
MGMT ANALYST4	63,684	1.0		0.5		
TAX INFO SPEC 1	40,908	0.1		0.1		
TAX INFO SPEC 4	60,636	0.2	0.1	0.2	0.1	
TAX POLICY SP 2	68,580	0.0		0.0		
TAX POLICY SP 3	77,616	0.3	0.2	0.2	0.2	0.2
TAX POLICY SP 4	83,556	0.0		0.0		
WMS BAND 3	98,308	0.0		0.0		
<b>Total FTEs</b>		3.1	1.5	2.4	1.5	1.4

**Part IV: Capital Budget Impact**

None.

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

Should this legislation become law, the Department will use the expedited rule-making process to amend WAC 458-20-185, titled: "Tax on tobacco products". Persons affected by this rule making would include businesses that sell vapor products.



# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1873 S HB	<b>Title:</b> Vapor product taxation	<b>Agency:</b> 195-Liquor and Cannabis Board
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## Part I: Estimates

No Fiscal Impact

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	5.3	7.0	6.1	7.0	7.0
<b>Account</b>					
Liquor Revolving Account-State 501-1	25,249	0	25,249	0	0
<b>Total \$</b>	25,249	0	25,249	0	0

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Rachelle Harris	Phone: 360-786-7137	Date: 03/18/2019
Agency Preparation: Colin O Neill	Phone: (360) 664-1675	Date: 03/22/2019
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 03/22/2019
OFM Review: Ramona Nabors	Phone: (360) 902-0547	Date: 03/22/2019

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

CHANGES FROM 1873 HB:

1873 SHB is a striking amendment and is very similar to 2165 2SHB from the 2018 session and bears little resemblance to 1873 HB.

\*\*\*\*

Section 201: For tax purposes, vapor products are defined as the noncombustible product containing a solution or other consumable substance, whether or not it contains nicotine, which employs a mechanical heating element, battery, or electronic circuit, that can be used to produce vapor from the solution. The definition of vapor products does not include the hardware. Smoking cessation products and marijuana products are also exempted from the definition of vapor products.

Section 202: Levies a 60% tax upon the sale, use, consumption, handling, possession, or distribution of vapor products in this state.

Section 203: If vapor products are bundled with another product not taxable under the vapor product tax statute, the entire bundled transaction is subject to the 60% tax unless the seller can identify the portion that is not subject to the vapor product tax.

Section 204: Creates the Essential Public Health Services Account. In the 2019-21 biennium, 75% of the revenues from the vapor product tax are deposited into this account. Beginning in the 2021-23 biennium and thereafter, 60% of the revenues from the vapor product tax are deposited into this account. Up to 12.5% of the funds in this account may be utilized and distributed by the Department of Health to the Liquor and Cannabis Board ("Board") for enforcement of vapor product regulations.

Section 207-209: Vapor product distributors and retailers are required to keep complete and accurate records of vapor products.

Section 212: The Department of Revenue must authorize, as duly authorized agents, enforcement officers of the Board to enforce vapor product tax provisions.

Section 215: The Board must maintain a current record of the names of all vapor distributors, vapor retailers, and vapor delivery sales licenses and the status of their licenses. The information must be kept online and updated monthly.

Section 222: Pre-existing inventories of vapor products that are held by a vapor products distributor or vapor products retailer at the time the bill takes effect are subject to the vapor product tax. The tax due on pre-existing inventories must be reported to the Department of Revenue on or before October 31, 2019, and the tax paid on or before January 31, 2020.

Section 302: The Board is granted the powers to enforce the new vapor product tax.

Section 309: The Board is required to make and publish rules necessary to enforce Part II of the bill (vapor product taxes).

Section 505: The vapor product tax takes effect October 1, 2019.

## **II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

No cash receipts impact.

## **II. C - Expenditures**

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

Note: Section 204 creates the Essential Public Health Services Account; up to 12.5% of the funds deposited into the Account are to be spent by the Department of Health (DOH) for purposes of enforcing the vapor tax regulations. This is done as a reimbursement contract - the Board incurs expenditures and DOH reimburses the Board from the Account. However, due to the bill not taking effect until October 1, 2019, Department of Revenue's estimate is that there will not be enough revenue generated from the vapor products tax to cover the agency's FY20 expenditures needs, and \$25,249 in Liquor Revolving Account appropriations is requested in FY20. Beginning in FY21, the revenue projections are sufficient to fund the Board's needs from the new account, resulting in a net zero cost to the Board.

The Liquor and Cannabis Board ("Board") assumes that the vapor products marketplace is fairly mature, thus the workload will be driven by the existing vapor product retailers and distributors impacted by this legislation, rather than assuming any new growth in licensees.

\*\*\*\*\*

Enforcement Division:

The LCB keeps detailed statistics on all of its enforcement activities and tracks this activity using a unit of measure called a Field Increment (FI). All direct enforcement activities such as premise checks, inspections and investigations are tracked to determine how many FI's are needed to accomplish each activity. Each FI is equivalent to 1/10th of an hour (6 minutes). For example, if a tavern premise check takes 2 FI's and two officers, it is anticipated that one check will consume 4 FI's. Using historical data to factor out indirect activities such as driving time, training, office time and leave, it has been determined that officers are available for an average of 4,220 FI's each year.

The Enforcement Division will require 4 LCB Enforcement Officers (LEO2) to enforce the vapor product tax regulations on behalf of the Department of Revenue. Workload is expected to be driven by complaint investigations, audits, surveillance, court testimony, education, compliance checks, and contact with other law enforcement agencies. Please see the attached "1873 SHB Vapor Product taxation Enforcement Field Increment Calculator" for the workload calculations.

Along with the 4 LEO2's, there will need to be a Lieutenant (LEO4) and a Commander (WMS2) to oversee the new unit, and an Administrative Assistant 2 (AA2) for office support.

Note: Salary, benefits, and associated costs are lower in FY20 due to the effective date of the bill being October 1, 2019.

4.0 LEO2's: FY20 costs: \$454,766 (salary/benefits - \$299,706, associated costs - \$47,880, onetime costs of \$107,180 for equipment purchases and training); Ongoing costs: \$463,448 (salary/benefits - \$399,608, associated costs - \$63,840)

1.0 LEO4: FY20 costs: \$119,769 (salary/benefits - \$83,204, associated costs - \$12,240, onetime costs of \$24,325 for equipment purchases and training); Ongoing costs: \$127,258 (salary/benefits - \$110,938, associated costs - \$16,320)

1.0 WMS2: FY20 costs: \$111,113 (salary/benefits - \$95,940, associated costs - \$9,068, onetime costs of \$6,105 for equipment setup); Ongoing costs: \$140,010 (salary/benefits - \$127,920, associated costs - \$12,090)

1.0 AA2: FY20 costs: \$54,714 (salary/benefits - \$46,531, associated costs - \$2,078, onetime costs of \$6,105 for equipment setup); Ongoing costs: \$64,811 (salary/benefits - \$62,041, associated costs - \$2,770)

Section 222 of the bill states that pre-existing inventory of vapor products held by a distributor or retailer as of the effective date of the bill (October 1, 2019), is subject to the vapor product tax. The Enforcement Division anticipates a one-time overtime cost of \$8,262 to audit 3% of these inventories. (3% x 3,600 currently licensed vapor product distributors and retailers = 108 audits x \$76.50/hr of overtime = \$8,262)

\*\*\*\*\*

Information Technology Division:

There will be one-time costs to update the Enforcement Notebook software (120 hours x \$100/hr = \$12,000).

\*\*\*\*\*

ATTORNEY GENERAL COSTS:

The Attorney General's Office (AGO) assumes they would bill the Board from increased legal work due to Section 207 & 209 (vapor product distributors and retailers required to maintain records). The failure of a distributor or retailer to allow free access to those records, would subject the entity's vapor license to suspension or revocation by the Board. In addition, they anticipate increased legal work from administrative violations and challenges to forfeitures (Section 219).

AGO assumes \$15,000 per year would be billed to the Board (and reimbursed by DOH) - equivalent to 0.07 FTE Assistant Attorney General (AAG).

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
501-1	Liquor Revolving Account	State	25,249	0	25,249	0	0
<b>Total \$</b>			25,249	0	25,249	0	0

**III. B - Expenditures by Object Or Purpose**

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	5.3	7.0	6.1	7.0	7.0
A-Salaries and Wages	382,689	499,236	881,925	998,472	998,472
B-Employee Benefits	150,954	201,271	352,225	402,542	402,542
C-Professional Service Contracts	12,000		12,000		
E-Goods and Other Services	93,756	43,920	137,676	87,840	87,840
G-Travel	68,945	65,260	134,205	130,520	130,520
J-Capital Outlays	67,280	840	68,120	1,680	1,680
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements	(750,375)	(810,527)	(1,560,902)	(1,621,054)	(1,621,054)
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	25,249	0	25,249	0	0

**III. C - Operating FTE Detail:** List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
ADMINISTRATIVE ASSISTANT 2	41,856	0.8	1.0	0.9	1.0	1.0
LCB ENFORCEMENT OFFICER 2	70,320	3.0	4.0	3.5	4.0	4.0
LCB ENFORCEMENT OFFICER 4	79,548	0.8	1.0	0.9	1.0	1.0
WMS BAND 2	96,552	0.8	1.0	0.9	1.0	1.0
<b>Total FTEs</b>		5.3	7.0	6.1	7.0	7.0

**III. D - Expenditures By Program (optional)**

Program	FY 2020	FY 2021	2019-21	2021-23	2023-25
Finance Division (020)	15,000	15,000	30,000	30,000	30,000
Enforcement Division (060)	748,624	795,527	1,544,151	1,591,054	1,591,054
Information Technology Division (070)	12,000		12,000		
<b>Total \$</b>	775,624	810,527	1,586,151	1,621,054	1,621,054

**Part IV: Capital Budget Impact**

NONE

**Part V: New Rule Making Required**

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Section 309 - The Liquor and Cannabis Board ("Board") is required to make and publish rules necessary to enforce Part II of the bill (vapor product taxes).

**1873 SHB Vapor Product taxation Enforcement Field Increment (FI) Calculator**

<b>3,600 Locations</b>	<b>Number of events</b>	<b>Time Factor</b>	<b>Staffing Factor</b>	<b>FI Total</b>
Complaint Investigations	120	7	1.3	1,092
Vapor Product Audits	108	10	1.3	1,404
Market Surveillance	48	5	2	480
Surveillance Operations Long Term	36	100	3	10,800
Court Testimony	12	5	1	60
Licensee education	108	5	1	540
Law Enforcement Contacts	60	5	1.3	390
Off Premises Compliance Check	108	1	1.5	162
<b>Total</b>				<b>14,928</b>

<b>Total Field Increments per FTE</b>	4,220
<b>FTE's required</b>	3.54

**Round FTE's                    4.0**

<b>Notes</b>	<b>Frequency</b>
Complaint Investigations	10 per month
Vapor Product Audits	3%
Market Surveillance	4 per month
Surveillance Operations Long Term	3 per rmonth
Court Testimony	1 per month
Licensee education	3%
Law Enforcement Contacts	5 per month
Off Premises Compliance Check	3%

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1873 S HB	<b>Title:</b> Vapor product taxation	<b>Agency:</b> 303-Department of Health
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

	FY 2020	FY 2021	2019-21	2021-23	2023-25
<b>Account</b>					
Essential Public Health Services Account-State NEW-1	6,003,000	12,653,000	18,656,000	29,750,000	37,204,000
<b>Total \$</b>	6,003,000	12,653,000	18,656,000	29,750,000	37,204,000

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Rachelle Harris	Phone: 360-786-7137	Date: 03/18/2019
Agency Preparation: Eric Molfino	Phone: 360-236-4537	Date: 03/21/2019
Agency Approval: Stacy May	Phone: (360) 236-4532	Date: 03/21/2019
OFM Review: Bryce Andersen	Phone: (360) 902-0580	Date: 03/21/2019

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

This Fiscal Note has the following changes from the original house bill:

Directs a minimum of 33% of the funds deposited into the account for foundational public health services (previous version 20%)

A minimum of 33% for tobacco, vapor product, nicotine control and prevention, and other substance use prevention and education (previous version no amount specified)

Section 204 – Establishes the Essential Public Health Services Account. In the 2019-2021 biennium, seventy-five percent of the moneys collected from the tax collected from vapor products as tobacco products must be deposited into the account. Beginning in the 2021-2023 biennium and thereafter, sixty percent of the moneys collected from the tax collected from vapor products as tobacco products must be deposited into the account. Moneys in the account may be spent only after appropriation. The department of health must use the moneys in the account for each of the four following purposes:

A minimum of thirty three percent of the funds deposited into the account for foundational public health services,  
A minimum of thirty three percent for tobacco, vapor product, nicotine control and prevention, and other substance use prevention and education

A minimum of ten percent of funds deposited to support increased access and training of public health professionals at public health programs at accredited public institutions of higher education in Washington

A Maximum of twelve and a half percent to fund enforcement by the state liquor and cannabis board to prevent sales of vapor products to minors and related provisions for control of marketing and product safety

The department of health and representatives of local health jurisdictions (LHJ's) must work together to arrive at a mutually acceptable allocation and distribution of funds from the account; and determine the best accountability measures to ensure efficient and effective use of funds, emphasizing use of shared services when appropriate.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

None

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

Assumption: The Department of Health (department) will be appropriated all the projected revenue for the newly established account (essential public health services account). For purposes of this fiscal note the department assumes that all the additional revenue that is not earmarked for the minimum will be split between Foundational Public Health activities and Public Health Access/training floor. The department and Local Health Jurisdictions (LHJs) will need to arrive at a mutually acceptable allocation and distribution of the funds. Below is projected revenue provided by the Department of Revenue, and base thresholds for the categories identified with such, and an amount to be determined by the department and LHJs.



Foundational Public Health Services (33% minimum)

FY2020- \$1,980,990  
FY2021- \$4,175,490  
FY2022 - \$4,477,110  
FY2023 - \$5,340,390  
FY2024 - \$5,846,280  
FY2025 - \$6,431,040

Tobacco, Vapor Product, Nicotine Control and Prevention (33% minimum)

FY2020- \$1,980,990  
FY2021- \$4,175,490  
FY2022 - \$4,477,110  
FY2023 - \$5,340,390  
FY2024 - \$5,846,280  
FY2025 - \$6,431,040

Public Health Access/Training Floor (10% minimum)

FY2020- \$600,300  
FY2021- \$1,265,300  
FY2022 - \$1,356,700  
FY2023 - \$1,618,300  
FY2024 - \$1,771,600  
FY2025 - \$1,948,800

Liquor and Cannabis Board (12.5% maximum)

FY2020- \$750,375  
FY2021- \$1,581,625  
FY2022 - \$1,695,875  
FY2023 - \$2,022,875  
FY2024 - \$2,214,500  
FY 2025 - \$2,436,000

Amount to be determined

FY2020- \$690,345  
FY2021- \$1,455,095  
FY2022 - \$1,560,205  
FY2023 - \$1,861,045  
FY2024 - \$2,037,340  
FY2025 - \$2,241,120

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
NEW-1	Essential Public Health Services Account	State	6,003,000	12,653,000	18,656,000	29,750,000	37,204,000
<b>Total \$</b>			6,003,000	12,653,000	18,656,000	29,750,000	37,204,000

**III. B - Expenditures by Object Or Purpose**

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts					
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services	6,003,000	12,653,000	18,656,000	29,750,000	37,204,000
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	6,003,000	12,653,000	18,656,000	29,750,000	37,204,000

**Part IV: Capital Budget Impact**

NONE

None

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

None

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

<b>Bill Number:</b> 1873 S HB	<b>Title:</b> Vapor product taxation
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## Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

### Legislation Impacts:

- Cities: Revenue increase
- Counties: Same as above
- Special Districts: Same as above
- Specific jurisdictions only: Local Health Jurisdictions would receive additional indeterminate revenues from the Essential Public Health Services Account
- Variance occurs due to:

## Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time:

### Estimated revenue impacts to:

Jurisdiction	FY 2020	FY 2021	2019-21	2021-23	2023-25
City	136,781	211,330	348,111	548,422	750,676
County	142,171	219,657	361,828	570,030	780,253
Special District	138,828	214,493	353,321	556,630	761,911
<b>TOTAL \$</b>	<b>417,780</b>	<b>645,480</b>	<b>1,063,260</b>	<b>1,675,082</b>	<b>2,292,840</b>
<b>GRAND TOTAL \$</b>					<b>5,031,182</b>

### Estimated expenditure impacts to:

None

## Part III: Preparation and Approval

Fiscal Note Analyst: Renee Martine-Tebow	Phone: 360-725-5045	Date: 03/19/2019
Leg. Committee Contact: Rachele Harris	Phone: 360-786-7137	Date: 03/18/2019
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 03/19/2019
OFM Review: Kathy Cody	Phone: (360) 902-9822	Date: 03/19/2019

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

*Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.*

#### **CHANGE FROM PREVIOUS VERSION:**

The substitute bill establishes the vapor products tax in a new chapter of the RCW, rather than tax them as an Other Tobacco Product. The taxation rate is 60 percent instead of 95 percent. Provisions related to taxation of preexisting inventories, bundled transactions, tribal compacting, and enforcement and record keeping are added in the substitute. Distributions are modified.

#### **SUMMARY OF CURRENT BILL:**

This bill imposes a new tax on vapor products (“vapor tax”). The tax rate will be 60 percent of taxable sales price (wholesale price). The tax applies to all vapor product sales except stand-alone hardware.

The following summarizes the provisions of the bill that are key to the revenue impact:

- 60 percent vapor tax on all vapor sales except stand-alone hardware.
- Legal age is still 18 years.
- Has tribal compacting.
- Has floor stock tax.
- No internet ban.

Revenues from this new tax will fund foundational public health services; tobacco, vapor product, and other substance abuse prevention; and expanded access to training of public health professionals.

Sec. 3 establishes the Essential Public Health Services Account. In the 2019-2021 biennium, 75 percent of the monies collected from the tax collected from vapor products as tobacco products must be deposited into the account. Beginning in the 2021-2023 biennium and thereafter, 60 percent of the monies collected from the tax collected from vapor products as tobacco products must be deposited into the account. Monies in the account may be spent only after appropriation.

The Department of Health (DOH) must use the monies in the account for each of the following purposes:

- A minimum of 33 percent of the funds deposited into the account for foundational public health services
- A minimum of 33 percent for tobacco, vapor product, nicotine control and prevention, and other substance use prevention and education
- A minimum of 10 percent of funds deposited to support increased access and training of public health professionals at public health programs at accredited public institutions of higher education in Washington
- A maximum of 12.5 percent to fund enforcement by the state liquor and cannabis board to prevent sales of vapor products to minors and related provisions for control of marketing and product safety

DOH and representatives of local health jurisdictions (LHJ’s) must work together to arrive at a mutually acceptable allocation and distribution of funds from the account; and determine the best accountability measures to ensure efficient and effective use of funds, emphasizing use of shared services when appropriate.

### **B. SUMMARY OF EXPENDITURE IMPACTS**

*Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.*

This bill would have no impact on local government expenditures.

According to the Washington State Association of Local Public Health Officials, this bill would not impact LHJs expenditures to work with DOH. LHJs would work within existing structures to determine a mutually acceptable allocation and distribution of funds from the Essential Public Health Services Account.

### **C. SUMMARY OF REVENUE IMPACTS**

*Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.*

#### **REVENUE CHANGE FROM PREVIOUS VERSION:**

The substitute has a greater impact on local government revenues than the previous version. The taxation rate is 60 percent instead of 95 percent and distributions from the account are modified.

**REVENUE IMPACT OF CURRENT BILL:**

This bill would increase tax revenues for all local governments.

This bill would also increase revenues for LHJs on top of the general revenue increase. DOH and LHJs will need to arrive at a mutually acceptable allocation and distribution of funds from the Essential Public Health Services Account. Please refer to the DOH fiscal note for revenue impacts to LHJs.

**LOCAL GOVERNMENT REVENUE IMPACT:**

This bill would increase local government revenues by \$422,000 in Fiscal Year 2020 and \$652,000 in Fiscal Year 2021.

**Counties:**

FY 2020 - \$ 142,171  
FY 2021 - \$ 219,657  
FY 2022 - \$ 226,395  
FY 2023 - \$ 343,635  
FY 2024 - \$ 371,597  
FY 2025 - \$ 408,656

**Cities:**

FY 2020 - \$ 136,781  
FY 2021 - \$ 211,330  
FY 2022 - \$ 217,813  
FY 2023 - \$ 330,609  
FY 2024 - \$ 357,511  
FY 2025 - \$ 393,165

**Special Districts:**

FY 2020 - \$ 138,828  
FY 2021 - \$ 214,493  
FY 2022 - \$ 221,073  
FY 2023 - \$ 335,557  
FY 2024 - \$ 362,862  
FY 2025 - \$ 399,049

**METHODOLOGY:**

The distributions in this note for cities, counties, and special districts are based on Department of Revenue (DOR) data for local sales and use tax distributions from calendar year 2015 (the most current year available). Mitigation payments and distributions to hospital benefit zones are not factored into this distribution. School districts are also not included in the special districts distribution. This results in a distribution of 34.03 percent to counties, 32.74 percent to cities, and 33.23 percent to special districts. The one percent DOR administrative fee has also been accounted for.

Note: School district impacts, including construction costs, operating costs, levy shifts, and other revenue impacts are described in fiscal notes prepared by the OSPI School District Fiscal Note process. Local Government Fiscal Notes include impacts to all other local governments (cities, counties, special districts).

**SOURCES:**

Department of Health  
Department of Revenue fiscal note  
Department of Revenue Local Tax Distributions (2016)  
Local Government Fiscal Note program "Local Sales Tax" model (2019)  
Local Government Fiscal Note program "Sales and Use Tax Distribution" model (2019)  
Washington State Association of Local Public Health Officials